

## **REMARKS**

Claims 1, 3 and 4 were pending in this matter at the time of the Office Action dated January 25, 2007. Applicant notes that claims 1, 3 and 4 have been cancelled. New claims 5 through 13 have added. Additionally, arguments are presented for allowing the newly added claims. The examiner's careful consideration is respectfully requested.

### **Claim Rejections – 35 USC §102(b) & 35 USC 103(a)**

The Examiner rejected claims 1, 3 and 4 under 35 USC §102(b) as being anticipated by Bathum et al. (U.S. Patent No. 7,055,265) and under 103(a) as being unpatentable over Bathum and as being unpatentable over Bathum in light of Galm (U.S. Patent No. 5,884,770). As noted above, claims 1, 3 and 4 have been cancelled and new claims 5 through 13 have been added. As such, the Examiner rejections have been rendered moot.

### **Newly Added Claims**

With regard to the newly added claims, Applicant respectfully reminds the Examiner that all claim limitations must be considered. Applicant has drafted new independent claims 5 and 10. Claim 5 is drawn toward a method of communicating and includes crafting a generally thin article for use in footwear wherein the article comprises an embossed portion and pictorial representation of one of a plurality of messages. The message on the article can both be seen and tactilely felt and as such communicate the intended message. Claim 10 is drawn toward a method for revitalizing a person and includes an article having an embossed shoe insert that correlates to a specific message. These claims are supported in the specification in paragraph 0013, which states that the article may be printed on and/or embossed. Additionally, the article may bear a message, which may be inspirational. Specifically, the inspirational message may be a Bible verse or verses, which are well known to provide spiritual and emotional encouragement and revitalization. The remaining claims 6 through 9 and claims 11 through 13 depend from claims 5 and 10 respectively.

Applicant notes that differences exist, between the claims as newly submitted and the previously cited references, which preclude these references from being used to reject the newly added claims. First of all, Bathum teaches a sandal system 10 for use with different insoles (reference column 6, lines 8 through 14). These insoles are specifically designed for different types of activities, i.e. running, hiking, golfing. Reference column 5, lines 5 through 67. Accordingly, each insole is constructed to meet the requirements of a different environment. One insole includes a base with extra cushioning 60 at discussed in column 5, line 10-11. Another insole includes a stiffer bottom shell layer 70 and a deep cup heel to provide additional lateral support. Reference column 5, lines 23 through 26. This clearly differs from the newly added claims, which all generally have the same shape and thickness. The difference between the plurality of articles of the newly added claims pertain to a different tactile sensation, which may be brought about by embossing and/or the use of a specific type of material used to construct the articles. Bathum pertains to ankle support and footing in different environments. The newly added claims pertain to communicating messages and to affecting a mental state of being. There is no motivation or suggestion in Bathum to lead one skilled in the art to arrive at the subject matter of Claims 5 through 13.

The Examiner also previously made reference to the patent to Galm. However, Galm discloses printed matter in the form of cards. Galm does not teach or suggest the communication of a message via tactile sensation and visual depiction as may be realized by a user wearing an article in footwear. Furthermore, there is no suggestion to combine teachings as the referenced patents do not provide a motivation combine and as the patents relate to vastly different field of art.

With regard to Ex Parte Breslow, applicant notes that the method of the newly added claims pertain to physical differences in tactile sensation of a plurality of articles that distinguish the articles from each other as they correlate to a specific message. This differs from printed material that only contains a visual representation of a message.

### Conclusion

In view of the above, Applicant respectfully submits that claims 5 through 13 are in condition for allowance. Applicant asserts that the newly submitted claims distinguish over prior art. Prompt consideration of this application and allowance of these claims are requested. If the Examiner should have any questions regarding this application or the amendment, a call to Applicant's agent/attorney would be appreciated.

Respectfully submitted,  
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